



Minor Amendments No. 2 Act 2006

No. 279

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2006, Act No. 279

1. Title

This is the Minor Amendments No.2 Act 2006.

2. **Building Code Act 1992 amended**

The Building Code Act 1992 is amended in sections 11(4) and 12(2) by deleting the phrase "not exceeding \$..." and inserting in its place the phrase "not exceeding 5 penalty units".

3. **Civil Aviation Act 1999 amended**

The Civil Aviation Act 1999 is amended in section 7(2) by deleting the words "The Cabinet" and inserting in their place "The Niue Public Service Commission".

4. **Companies Act 2006 amended**

Every references in the law of Niue to the Companies Act 1955 (NZ) shall be amended to be references to the Companies Act 2006.

5. **Carriage by Air Act 1967 amended**

The Carriage by Air Act 1967 is amended in section 13(1) --

- (a) By deleting "The Governor-General may from time to time, by Order in Council," and inserting in their place "Cabinet may by regulation".
- (b) By deleting "in the Order" and inserting in their place "in the Regulation".

6. Copra Act 1969 repealed

The Copra Act 1969 is repealed.

7. Chattels Transfer Act 1924 amended

The Chattels Transfer Act is amended by repealing and replacing section 46 –
"Section 46 Sales by Registrar

- (1) Where a person is entitled to exercise the power of sale contained or implied in an instrument, that person may apply in writing to the Registrar for the property to be sold.
- (2) As soon as practicable after receiving an application under this section the Registrar shall –
 - (a) Fix a convenient time (being not more than 3 months and not less than one month from the date of the application) and a convenient place for the conduct of the sale; and
 - (b) Give written notice to any person (including the debtor) whose name and address has been supplied by the applicant, of the time and place at which the sale is to be conducted, and of the redemption price of the property to be sold; and
 - (c) Give such public notice of the sale as he considers sufficient; and
 - (d) Approve proper conditions of sale and do all other things necessary for the proper conduct of the sale.
- (3) (a) At any time before the sale the debtor may pay to the applicant either the redemption price, or the amount due and owing under the instrument, together with the expenses already incurred by the applicant in connection with the intended sale, and any money expended on or about the property subsequent to the time when the redemption price in the application for sale was fixed, and on such payment the applicant shall do the acts required by clause (10) of Schedule 4;
(b) Where the sum so paid is less than the amount owing under the instrument, the balance may be recovered from the debtor under the covenant to repay expressed or implied in the instrument.
- (4) The applicant may be a bidder at any such sale, and become the purchaser of the property or any part of it.
- (5) In the event of the applicant being the purchaser, the Registrar shall execute a memorandum of conveyance of the property purchased containing a recital that the sale has been made under this section.
- (6) In the memorandum the consideration to be stated shall be not less than the redemption price.
- (7) Upon the execution of the memorandum by the Registrar, the property shall vest in the applicant in the same manner as if it had been conveyed to a third party purchaser at the sale.
- (8) A memorandum of transfer executed by the Registrar upon a sale under this section shall be conclusive proof that the provisions of this Act relating to the sale have been complied with.

- (9) If any surplus money arising from the sale of the property cannot be paid to the debtor by reason of his not being found after reasonable inquiry the money shall vest in the Government.
- (10) In respect of every application under this section there shall be paid to the Registrar by the applicant, in addition to the reasonable expenses of the sale a fee of \$100 which shall accompany the application."

8. Customs Act 1966 amended

The Customs Act 1966 is amended –

- (a) By repealing section 78(5).
- (b) In section 145(2) by deleting the words "the Governor-General prescribes by Order in Council" and inserting in their place "Cabinet prescribes by Regulation".
- (c) In section 148(1) by deleting the words "the Governor-General may from time to time, by Order in Council" and inserting in their place "Cabinet may".
- (d) In section 232 by deleting the words "the Governor-General may from time to time, by Order in Council" and inserting in their place "Cabinet may".
- (e) In section 304 all references to New Zealand shall be amended to be references to Niue, and all references to Niue shall be amended to be references to New Zealand.

9. Environment Act 2003 amended

The Environment Act 2003 is amended

- (a) in section 11 by deleting the words "The Minister" and inserting in their place the Niue Public Service Commission"; and
- (b) by repealing section 17.

10. Guardianship Act 1968 amended

The Guardianship Act 1968 is amended by repealing section 6A(2).

11. Niue Act 1966 section 29A

Section 29A of the Niue Act 1966 is repealed and replaced by the following new section:

29A Prisons and Criminal Justice

- (1) Cabinet may by regulations provide for-
 - (a) the administration of sentences imposed by the Court (whether involving imprisonment or not);
 - (b) the management and supervision of offenders placed in the custody or under the control of the Controller of Prisons, a Superintendent, or Parole and Probation Officers;
 - (c) the administration of prisons and other detention centres;
 - (d) the administration of the parole system and probation service;
 - (e) all other matters necessary or expedient for ensuring that full effect is given to decisions of the courts in criminal matters.
- (2) Regulations made under subsection (1) may provide for prison discipline and for control of breach of discipline by the officer in charge of the prison.

- (3) Punishments imposed under regulations made under this section shall not exceed:
- (a) confinement in a separate cell for a period of 2 weeks;
 - (b) the forfeiture of privileges for 3 months; or
 - (c) a combination of the punishments specified in paragraphs (a) to (b).
- (4) This section shall be deemed to have come into force on 1 October 2006.

12. Niue Act 1966 section 737

- (1) It is hereby enacted and declared that the only intellectual property legislation in force in Niue is section 737 of the Niue Act 1966.
- (2) For the removal of doubt it is hereby declared that the Copyright Act 1962, the Designs Act 1953, the Merchandise Marks Act 1954, the Patents Act 1953, and the Trademarks Act 1953 are repealed.

13. Niue Act 1966 amended

The Niue Act 1966 is amended

- (a) in section 49 by numbering the existing provision as subsection (1); and
- (b) by inserting the following subsection:

“(2) Such regulations may amend or repeal the Sea Carriage of Goods Act 1940 as promulgated for Niue by the Cook Islands Sea Carriage of Goods Order 1946, and may amend or repeal the Marine Pollution Act 1974 and rules made under it following the original extension to Niue of the Oil in Navigable Waters Act 1965 under the Niue (New Zealand) Laws Regulations 1972.”

14. Niue Amendment Act 1971 amended

The Niue Amendment Act 1971 is amended by deleting sections 14 and 15 from that Act and inserting them as “section 738 Aerodromes” of the Niue Act 1966.

15. Niue Bank Act 1994 amended

The Niue Bank Act 1994 is amended in section 103 by deleting the words “The Government may from time to time, by Order in Cabinet,” and insert in their place “Cabinet may”.

16. Niue Development Bonds Act 1994 amended

The Niue Development Bonds Act 1994 is amended by repealing section 5.

17. Niue Flag Act 1975 amended

The Niue Flag Act 1975 is amended in section 3 by deleting the words: “Regulations may from time to time be made under this Act” and inserting in their place “Cabinet may make regulations”.

18. Partnership Act 1908 amended

The Partnership Act 1908 is amended in section 4 by deleting subsection (2) and inserting the following in its place -

“(2) The relationship between members of a company or association registered under the Companies Act 2006 is not a partnership within the meaning of this Act.”

19. Public Revenues Act 1959 amended

The Public Revenues Act 1959 is amended by repealing section 33.

20. Race Relations Act 1972 amended

The Race Relations Act 1972 is amended by repealing section 13(5) and inserting in its place the following subsection –

“13(5) No person shall commit an offence against section 228A of the Niue Act 1966 or under any enactment other than this Act, by reason of compliance with any requirement of the Conciliator under this section.”

21. Sea Carriage of Goods Act 1940 amended

The Sea Carriage of Goods Act 1940 is amended by deleting the phrase “New Zealand” wherever it appears, and substituting the word “Niue”.

22. Territorial Sea and Exclusive Economic Zone Act 1997 amended

The Territorial Sea and Exclusive Economic Zone Act 1997 is amended –

- (a) section 2(1) in the definition of ‘protected fish species’ the words ‘If caught, they must be released unharmed where caught’;
- (b) by inserting the following new section
“21A(1) Any person who catches a protected fish species must release the fish unharmed where caught.
(2) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 1000 penalty units.”

23. Water Resources Act 1996 amended

The Water Resources Act 1996 is amended by repealing section 32.

24. Obsolete laws repealed

The following pieces of subsidiary legislation are repealed-

- (a) Niue Fruit Control Regulations G 1924, III, 2213, SR 1945/12
- (b) Niue Fruit Control Regulations SR 1945/12
- (c) Niue Fumigation Regulations G 1933, III, 2424
- (d) Commonwealth Preference Countries Tariff Order SR 1974/96
- (e) Cook Islands Import Control Regulations SR 1944/19
- (f) Developing Countries Tariff Order SR 1972/213
- (g) Excise Duties Suspension (Intergovernmental Agreement) Order SR 1964/195
- (h) Excise Duty (Cigars and Snuff) Order SR 1970/216, SR 1973/1
- (i) Export Licences Exemption Notices SR 1966/196, SR 1968/118
- (j) Customs Import Prohibition Orders SR 1950/127, SR 1952/110, SR 1952/131, SR 1952/146, SR 1960/182, SR 1960/183, SR 1962/57, SR 1967/136
- (k) Civil Aviation Charges Regulations SR 1965/121
- (l) Civil Aviation (Investigation of accidents) SR 1953/152
- (m) Civil Aviation Regulations 1953, SR 1974/275